

EXHIBIT NUMBER
560/74

16

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SEAN MCMAHON,

Plaintiff,

-vs-

RJM ACQUISITIONS LLC,

Defendant.

Case: 2:07-cv-13151
Assigned To: Borman, Paul D
Referral Judge: Scheer, Donald A
Filed: 07-27-2007 At 04:49 PM
CMP MCMAHON V RJM ACQUISITIONS LLC
(LG)

LAW OFFICES OF BRIAN P. PARKER, P.C. /

BRIAN P. PARKER (P 48617)

Attorney for Plaintiff

30700 Telegraph Rd., Suite 1580

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lemonlaw@ameritech.net

WWW.COLLECTIONSTOPPER.COM

COMPLAINT AND DEMAND FOR JURY

Plaintiff, SEAN MCMAHON, (Plaintiff) by and through counsel, brings this action against the above listed Defendant RJM ACQUISITIONS LLC,, (Defendant) on the grounds and in the amounts set forth herein:

I. PRELIMINARY STATEMENT

The plaintiff brings this action for damages based upon the Defendant's violations of the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692 *et seq.* and seeks actual damages, punitive damages, costs and attorney's fees.

II. PARTIES

1.

The plaintiff is a natural person and consumer, a resident of Dearborn, Wayne County, Michigan, and a "consumer" as defined by 15 U.S.C. § 1692a(3).

2.

The defendant is a Foreign Corporation located in Syosset, New York.

3.

The defendant is engaged in the collection of debts from consumers using the mail and telephone. The defendants regularly attempt to collect consumer debts alleged to be due another and is a "debt collector" as provided in 15 U.S.C. § 1692a(6).

III. JURISDICTION AND VENUE

4.

This court has subject matter jurisdiction over this Complaint pursuant to FDCPA, 15 U.S.C. § 1692 *et seq.* The venue is proper in any court of competent jurisdiction under 15 U.S.C. § 1692k(d). The court may also exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts that give rise to any federal law claims under 28 U.S.C. § 1367.

IV. STATUTORY STRUCTURE

FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)

5.

The FDCPA was passed to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuse. 15 U.S.C. § 1692.

6.

Under the FDCPA, a “consumer” is any natural person obligated or allegedly obligated to pay any debt. 15 U.S.C. §1692a(3).

7.

Under the FDCPA, “debt” means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes. 15 U.S.C. § 1692a(5).

8.

Under the FDCPA, a “debt collector” is any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose for which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another. 15 U.S.C. § 1692a(6).

9.

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. 15 U.S.C. § 1692e.

10.

A debt collector may not violate the FDCPA, 15 U.S.C. § 1692f by using unfair or unconscionable means to collect or attempt to collect any debt.

11.

Any debt collector who fails to comply with the provisions of the FDCPA is liable for any actual damages sustained, statutory damages up to \$1,000.00, attorneys' fees as determined by the Court and costs of this action. 15 U.S.C. § 1692k.

12.

The Michigan Collection Practices Act (MCPA), MCLA 445.251 et seq. is an act to regulate the collection practices of certain persons; to provide for the powers and duties of certain state agencies; and to provide penalties and civil fines.

13.

A "Collection agency" means a person directly or indirectly engaged in soliciting a claim for collection or collecting or attempting to collect a claim owed or due or asserted to be owed or due another, or repossessing or attempting to repossess a thing of value owed or due or asserted to be owed or due another person, arising out of an expressed or implied agreement. MCLA 445.251 (1) (b).

14.

A "Consumer" or "debtor" means a natural person obligated or allegedly obligated to pay a debt. MCLA 445.251 (1)(d).

15.

Prohibited acts by debt collectors or collection agencies under MCLA 445.252 include:

- (a) Communicating with a debtor in a misleading or deceptive manner, such as using the stationery of an attorney or credit bureau unless the regulated person is an attorney or is a credit bureau and it is disclosed that it is the collection department of the credit bureau.
- (b) Using forms or instruments which simulate the appearance of judicial process.
- (d) Using forms that may otherwise induce the belief that they have judicial or official sanction.
- (e) Making an inaccurate, misleading, untrue, or deceptive statement or claim in a communication to collect a debt.
- (f) Misrepresenting in a communication with a debtor 1 or more of the following:
 - (i) The legal status of a legal action being taken or threatened.
 - (ii) The legal rights of the creditor or debtor.
 - (iii) That the nonpayment of a debt will result in the debtor's arrest or imprisonment, or the seizure, garnishment, attachment, or sale of the debtor's property.

- (i) Communicating information relating to a debtor's indebtedness to an employer or an employer's agent unless the communication is specifically authorized in writing by the debtor subsequent to the forwarding of the claim for collection, the communication is in response to an inquiry initiated by the debtor's employer or the employer's agent, or the communication is for the purpose of acquiring location information about the debtor.
- (q) Failing to implement a procedure designed to prevent a violation by an employee.
- (s) Employing a person required to be licensed under article 9 of Act No. 299 of the Public Acts of 1980, being sections 339.901 to 339.916 of the Michigan Compiled Laws, to collect a claim unless that person is licensed under article 9 of Act No. 299 of the Public Acts of 1980.
- (n) Using a harassing, oppressive, or abusive method to collect a debt.

16.

Under The Michigan Collection Practices Act, MCLA 445.257 et seq.(1) A person who suffers injury, loss, or damage, or from whom money was collected by the use of a method, act, or practice in violation of this act may bring an action for damages or other equitable relief.(2) In an action brought pursuant to subsection (1), if the court finds for the petitioner, recovery shall be in the amount of actual damages or \$50.00, whichever is greater. If the court finds that the method, act, or practice was a wilful violation, the court may assess a civil fine of not less than 3 times the actual damages, or \$150.00, whichever is greater, and shall award reasonable attorney's fees and court costs incurred in connection with the action.

V. FACTUAL ALLEGATIONS

17.

Plaintiff has received numerous phone calls from Defendant representatives at work and at home in regards to the collection of an alleged debt.

18.

Plaintiff does not even owe the alleged debt that Defendant is calling him about. **Please see attached Exhibit No. 1.**

19.

In its conversations with Plaintiff, Defendant representatives have failed to identify themselves.

20.

Defendant representatives have called Plaintiff after 9:00 p.m., in violation of the FDCPA.

21.

As a result of Defendant's wrongful conduct, Plaintiff has suffered statutory, actual, emotional and financial damages and also seeks her attorney fees and costs under the FDCPA and MCPA.

VI. CAUSES OF ACTION

CLAIM AGAINST DEFENDANT UNDER THE FDCPA

22.

The defendant has violated the FDCPA, 15 U.S.C. § 1692e (10) by the use of false representations and deceptive means in pursuing Plaintiff for a debt that was not validated.

23.

Defendant has violated the FDCPA, 15 U.S.C. § 1692d(6) by placing telephone calls without meaningful disclosure of the caller's identity.

24.

Defendant has violated the FDCPA, 15 U.S.C. § 1692d by engaging in any conduct the natural consequence of which is to harass, oppress or abuse any person in connection with the collection of a debt.

25.

Defendant has violated the FDCPA, 15 U.S.C. § 1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse or harass any person at the called number.

26.

Defendant has violated the FDCPA, 15 U.S.C. § 1692f by using unfair or unconscionable means to collect or attempt to collect any debt.

27.

Defendant has violated the FDCPA, 15 U.S.C. § 1692e(2)(A) by falsely representing the character, amount or legal status of any debt.

28.

Defendant has violated the FDCPA, 15 U.S.C. § 1692f(i) by collecting any amount not permitted by law.

29.

Defendant has violated the FDCPA, 15 U.S.C. § 1692c(a)(1) by contacting the consumer at after 9:00 p.m.

30.

Defendant has violated the FDCPA, 15 U.S.C. § 1692c(a)(3) by communicating with the consumer at the consumer's place of employment.

31.

As a result of Defendant's wrongful conduct, Plaintiff has suffered statutory, actual, emotional and financial damages and also seeks his attorney fees and costs under the FDCPA.

**CLAIM AGAINST DEFENDANT UNDER THE MCPA
AND THE MICHIGAN OCCUPATIONAL CODE**

32.

Defendant has violated MCLA 445.252 (a) with the use of false representations and deceptive means in its contact of Plaintiff.

33.

Defendant has violated MCLA 445.252(n) by using a harassing, oppressive or abusive method to collect on a debt.

34.

Defendant has violated MCLA 445.252(q) by failing to implement a procedure designed to prevent a violation by an employee.

35.

Defendant has violated MCLA 445.252(g) by communicating with a debtor without accurately disclosing the caller's identity.

36.

Defendant has violated MCLA 445.252(e) by making an inaccurate, misleading, untrue or deceptive statement or claim in a communication to collect a debt.

37.

Defendant's foregoing acts in attempting to collect this alleged debt against the Plaintiff constitute violations of the Occupational Code, M.C.L. § 339.915 including but not limited to the following:

- a. (n) Using a harassing, oppressive or abusive method to collect a debt.
- b. (q) By failing to implement a procedure designed to prevent a violation by an employee.
- c. (g) By communicating with a debtor without accurately disclosing the caller's identity.
- d. (a) By communicating with a debtor in a misleading or deceptive manner.
- e. (e) By making an inaccurate, misleading, untrue or deceptive statement or claim in a communication to collect a debt.

38.

As a result of Defendant's wrongful conduct, Plaintiff has suffered statutory, actual, emotional and financial damages and also seeks his attorney fees and costs under the MCPA and the Michigan Occupational Code.

39.

Under MCLA 445.257 et seq., Plaintiff is eligible for equitable relief, triple damages and his attorney fees and costs, and further statutory damages under the act.

40.

As a result of the actions of Defendant, Plaintiff hired the undersigned counsel. Counsel has been an attorney in good standing for almost 13 years and has handled thousands of consumer cases, personally. Counsel is known in his field of a consumer advocate and a competent, experienced consumer trial attorney. As a result, counsel's time is billed at the reasonable rate of \$350.00 an hour.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court grants the following relief against the Defendant:

1. For compensatory damages;
2. For statutory damages;
3. For punitive damages;
4. For attorneys' fees and costs incurred in this action;
5. For Triple Damages under the MCPA, and
5. For such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMAND

Plaintiff demands a Trial by Jury on all issues.

This 27th day of June, 2007

Respectfully submitted,



BRIAN P. PARKER (P48617)
Attorney for Plaintiff

RJM ACQUISITIONS LLC
575 Underhill Blvd
Suite 224
Syosset, NY 11791
1 (800) 651-4572 Toll Free
Fax# (516) 714-1310

Ex. #1
Sent
7-17-07

May 17, 2007

SEAN P MCMAHON

NOTIFICATION OF INACCURACY/DISPUTE

Original/Previous Creditor: CHARTER ONE BK, N.A. OVERDRAFT/DDA
RJM File Number: 1005618908
Account Number: ~~48803~~ 48803

Dear SEAN P MCMAHON:

It is requested that you complete and sign this notification of inaccuracy/dispute and return it to us at the above address if you believe any information concerning the above referenced account is not accurate.

Reason(s) for inaccuracy/dispute: (Please check ALL boxes that apply)

- | | |
|---|--|
| <input type="checkbox"/> Not my social security number | <input type="checkbox"/> Never received credit card/checks in the mail |
| <input type="checkbox"/> Never signed application | <input type="checkbox"/> I was a minor when account was opened (Please provide date of birth) |
| <input type="checkbox"/> My wallet/purse was lost | <input type="checkbox"/> I was only an authorized user of this account (not a responsible party) |
| <input type="checkbox"/> My wallet/purse was stolen | <input type="checkbox"/> This account was opened after my divorce |
| <input type="checkbox"/> My identity was stolen | <input checked="" type="checkbox"/> Account was settled/paid. (Please provide proof) |
| <input type="checkbox"/> Never applied for this account | <input type="checkbox"/> Account balance is not accurate. Balance should be \$ _____ |
| <input type="checkbox"/> Never lived at address on record | <input type="checkbox"/> responsible for the sum of \$ _____ |
| <input type="checkbox"/> Account included in bankruptcy case# _____; filer date _____; discharge date _____ | |
| <input checked="" type="checkbox"/> My spouse/family member <u>MOTHER</u> is responsible | |
| <input type="checkbox"/> Other _____ | |

PLEASE GIVE AN EXPLANATION OF THE INACCURACY/DISPUTE:

Paid off at Branch By Mother
Account Closed She also took all checks for that account

PLEASE PROVIDE INFORMATION (IF ANY) ABOUT THE PERSON(S) YOU BELIEVE TO BE RESPONSIBLE FOR THIS ACCOUNT

Name: Roseella McMahon Date of Birth: 10-4-57 Social Security #: _____
Address: 1646 Walnut Deer Park Business Address: _____
Mi 48127
Home Phone # _____ Business Phone # _____

Do you have written proof of the inaccuracy/dispute?

- ☒ Yes. If yes, please return proof of inaccuracy/dispute.
☐ No

Was a police report filed?

- ☐ Yes. If yes, please return copy of police report with this form.
☐ No

I have supplied information known to me, in response to the circumstances relating to this inaccurate/dispute account.

x [Signature] x 7-17-07
Signature Date

SBEIRJM

000 002

That is the last known address I have for her

..CLOSING

SEAN P MCMAHON

355-244880-3

03/24/03

0.00

*Account was closed and Paid OFF at Branch
By My Mother Rosetta McMahon*

TOTALLY FREE CHECKING ACCOUNT
2 ACCOUNT SUMMARY:

BEGINNING STATEMENT BALANCE AS OF 2/25/03	252.45-
1 DEPOSITS AND OTHER CREDITS	341.95
3 CHECKS AND OTHER DEBITS	89.50
INTEREST POSTED THIS STATEMENT	.00
SERVICE CHARGES, POSTED THIS STATEMENT	.00
ENDING STATEMENT BALANCE AS OF 03/24/03	.00
ANNUAL PERCENTAGE YIELD EARNED	.00

*She took
all remaining
checks
seen
McMahon
4-503*

2 TRANSACTION ACTIVITY:

2 DATE	AMOUNT		BALANCE
02/25		PREVIOUS BALANCE	252.45-
02/28	30.00	SUSTAINED OVERDRAFT FEE	282.45-
03/03	29.50	NSF CHARGE	311.95-
03/06	30.00	SUSTAINED OVERDRAFT FEE	341.95-
03/11	341.95	NOW CHARGE OFF	.00

2 NO CHECK ACTIVITY

RJM ACQUISITIONS LLC
575 Underhill Blvd.
Suite 224
Syosset, NY 11791
1 (800) 651-4572 Toll Free
Fax # (516) 714-1310

May 17, 2007

SEAN P MCMAHON
[REDACTED]
[REDACTED]

877-363-4605

Original/Previous Creditor: CHARTER ONE BK, N.A. OVERDRAFT/DDA
RJM File Number: 1005618908
Account Balance: \$341.95
Account Number: [REDACTED] 48803

Dear SEAN P MCMAHON:

RJM ACQUISITIONS LLC ("RJM") has become aware of an inquiry you made concerning the above referenced account owned by RJM.

The enclosed documents we are sending in response to your inquiry constitute verification of the debt.

RJM ACQUISITIONS LLC takes seriously its duty to maintain accurate information concerning this account. If you believe any information contained in this letter or the enclosed documents is not accurate, kindly complete the enclosed Notification of Inaccuracy/Dispute form and return the form to us using the postage paid return envelope provided.

Very truly yours,


Jamie Rozansky
Director of Operations

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

SBEIRJM

000 002

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

County in which this action arose

Wayne

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except of initiating the civil docket sheet. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Sean McMahon

DEFENDANTS

RJM Acquisitions LLC

(b) County of Residence of First Listed Plaintiff Wayne
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Nassau
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name) Brian P. Parker (P48617)
30700 Telegraph Road, Suite 1580
Bingham Farms, MI 48025
(248) 647-6868

Case: 2:07-cv-13151

Assigned To: Borman, Paul D

Referral Judge: Scheer, Donald A

Filed: 07-27-2007 At 04:49 PM

CMP MCMAHON V RJM ACQUISITIONS LLC (LG)

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II. BASIS OF JURISDICTION (Select One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITY (For Diversity Cases Only)

- Citizen of This State ☐ 1 PTF ☐ 1 DEF and One Box for Defendant PTF DEF
Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Select One Box Only)

CONTRACT	PERSONAL INJURY	PROPERTY DAMAGE	OTHER	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input checked="" type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 154 Stockholders' Suits <input type="checkbox"/> 155 Other Contract <input type="checkbox"/> 156 Contract Product Liability <input type="checkbox"/> 156 Franchise	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (11958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Challenge Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

ORIGIN (Select One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reseized
☐ 5 Transferred from another district (Specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

I. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity).
15 U.S.C. § 1691-1699
FEDERAL TRADE COMMISSION ACT

II. REQUESTED IN COMPLAINT:**III. RELATED CASE(S) IF ANY**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

\$25,000

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

(See instructions):

JUDGE

DOCKET NUMBER

SIGNATURE OF ATTORNEY OF RECORD

OFFICE USE ONLY

RECEIPT #

AMOUNT

☐ Yes☒ No

Count _____

Case No.: _____

Judge: _____

☐ Yes☒ No

Court: _____

Case No.: _____

Judge: _____

Notes :
